

Union Calendar No. 583

114TH CONGRESS
2D SESSION

H. R. 5659

[Report No. 114-751, Part I]

To amend title XVIII of the Social Security Act with respect to expanding Medicare Advantage coverage for individuals with end-stage renal disease (ESRD).

IN THE HOUSE OF REPRESENTATIVES

JULY 7, 2016

Mr. SMITH of Missouri (for himself, Mr. LEWIS, Mr. BILIRAKIS, Mr. SCHRAIDER, and Mr. MARINO) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 19, 2016

Additional sponsors: Mr. HARPER, Mr. ROSKAM, Mr. YOUNG of Indiana, Ms. SINEMA, Mr. BARTON, Ms. JENKINS of Kansas, and Ms. LINDA T. SÁNCHEZ of California

SEPTEMBER 19, 2016

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

SEPTEMBER 19, 2016

The Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on July 7, 2016]

A BILL

To amend title XVIII of the Social Security Act with respect to expanding Medicare Advantage coverage for individuals with end-stage renal disease (ESRD).

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Expanding Seniors Re-*
5 *ceiving Dialysis Choice Act of 2016” or as the “ESRD*
6 *Choice Act of 2016”.*

7 **SEC. 2. EXPANDING MEDICARE ADVANTAGE COVERAGE FOR**
8 **INDIVIDUALS WITH END-STAGE RENAL DIS-**
9 **EASE (ESRD).**

10 (a) *EXPANDED MA ELIGIBILITY.—*

11 (1) *IN GENERAL.—Section 1851(a)(3) of the So-*
12 *cial Security Act (42 U.S.C. 1395w-21(a)(3)) is*
13 *amended—*

14 (A) *by striking subparagraph (B); and*
15 (B) *by striking “ELIGIBLE INDIVIDUAL”*
16 *and all that follows through “In this title, subject*
17 *to subparagraph (B),” and inserting “ELIGIBLE*
18 *INDIVIDUAL.—In this title.”.*

19 (2) *CONFORMING AMENDMENTS.—*

20 (A) *Section 1852(b)(1) of the Social Secu-*
21 *rity Act (42 U.S.C. 1395w-22(b)(1)) is amend-*
22 *ed—*

23 (i) *by striking subparagraph (B); and*
24 (ii) *by striking “BENEFICIARIES” and*
25 *all that follows through “A*

1 *Medicare+Choice organization” and inserting*
2 *“BENEFICIARIES.—A Medicare Advance-*
3 *tage organization”.*

4 *(B) Section 1859(b)(6) of the Social Secu-*
5 *rity Act (42 U.S.C. 1395w–28(b)(6)) is amended*
6 *by striking “may waive” and all that follows*
7 *through “subparagraph and”.*

8 **(b) EXCLUDING COSTS FOR KIDNEY ACQUISITIONS**
9 **FROM MA BENCHMARK.**—Section 1853 of the Social Secu-
10 rity Act (42 U.S.C. 1395w–23) is amended—

11 (1) in subsection (k)—

12 (A) in paragraph (1)—

13 (i) in the matter preceding subpara-
14 graph (A), by striking “paragraphs (2) and
15 (4)” and inserting “paragraphs (2), (4),
16 and (5)”; and

17 (ii) in subparagraph (B)(i), by strik-
18 ing “paragraphs (2) and (4)” and inserting
19 “paragraphs (2), (4), and (5)”; and

20 (B) by adding at the end the following new
21 paragraph:

22 “(5) EXCLUSION OF COSTS FOR KIDNEY ACQUISI-
23 TIONS FROM CAPITATION RATES.—After determining
24 the applicable amount for an area for a year under
25 paragraph (1) (beginning with 2019), the Secretary

1 shall adjust such applicable amount to exclude from
2 such applicable amount the Secretary's estimate of the
3 standardized costs for payments for organ acquisi-
4 tions for kidney transplants covered under this title
5 (including expenses covered under section 1881(d)) in
6 the area for the year."; and

7 (2) in subsection (n)(2)—

8 (A) in subparagraph (A)(i), by inserting
9 “and, for 2019 and subsequent years, the exclu-
10 sion of payments for organ acquisitions for kid-
11 ney transplants from the capitation rate as de-
12 scribed in subsection (k)(5)” before the semicolon
13 at the end;

14 (B) in subparagraph (E), in the matter
15 preceding clause (i), by striking “subparagraph
16 (F)” and inserting “subparagraphs (F) and
17 (G)”;
18 and

19 (C) by adding at the end the following new
20 subparagraph:

21 “(G) APPLICATION OF KIDNEY ACQUISI-
22 TIONS ADJUSTMENT.—The base payment amount
23 specified in subparagraph (E) for a year (begin-
24 ning with 2019) shall be adjusted in the same
 manner under paragraph (5) of subsection (k) as

1 *the applicable amount is adjusted under such
2 subsection.”.*

3 *(c) FFS COVERAGE OF KIDNEY ACQUISITIONS.—*

4 *(1) IN GENERAL.—Section 1852(a)(1)(B)(i) of
5 the Social Security Act (42 U.S.C. 1395w–
6 22(a)(1)(B)(i)) is amended by inserting “or coverage
7 for organ acquisitions for kidney transplants, includ-
8 ing as covered under section 1881(d)” after “hospice
9 care”.*

10 *(2) CONFORMING AMENDMENT.—Section 1851(i)
11 of the Social Security Act (42 U.S.C. 1395w–21(i)) is
12 amended by adding at the end the following new
13 paragraph:*

14 *“(3) FFS PAYMENT FOR EXPENSES FOR KIDNEY
15 ACQUISITIONS.—Paragraphs (1) and (2) do not apply
16 with respect to expenses for organ acquisitions for
17 kidney transplants described in section
18 1852(a)(1)(B)(i).”.*

19 *(d) SENSE OF CONGRESS REGARDING APPLICATION OF
20 APPROPRIATE MEDICARE ADVANTAGE RISK ADJUSTMENT
21 FOR PAYMENT FOR INCREASED ESRD ENROLLEES.—It is
22 the sense of Congress that in implementing the policies
23 under this section, the Centers for Medicare & Medicaid
24 Services should provide, in an accurate and transparent
25 manner, for risk adjustment to payment under the Medicare*

1 *Advantage program to account for the increased enrollment*
2 *in Medicare Advantage plans of individuals with end-stage*
3 *renal disease.*

4 (e) *EXPANDED MA EDUCATION.—Section*
5 *1851(d)(2)(A)(iii) of the Social Security Act (42 U.S.C.*
6 *1395w–21(d)(2)(A)(iii)) is amended by inserting before the*
7 *period at the end the following: “, including any additional*
8 *information that individuals determined to have end-stage*
9 *renal disease may need to make informed decisions with*
10 *respect to such an election”.*

11 (f) *REPORT.—Not later than April 1, 2022, the Ad-*
12 *ministrator of the Centers for Medicare & Medicaid Services*
13 *shall submit to Congress a report on the impact of the*
14 *amendments made by this section on spending under the*
15 *traditional Medicare fee-for-service program under parts A*
16 *and B of title XVIII of the Social Security Act as well as*
17 *on spending under parts C and D of such title. The report*
18 *shall include an assessment of the risk adjustment payment*
19 *methodologies under such parts C and D and their ade-*
20 *quacy with respect to individuals with end-stage renal dis-*
21 *ease and such recommendations as the Administrator deems*
22 *appropriate.*

23 (g) *EFFECTIVE DATE.—The amendments made by this*
24 *section shall apply to plans years beginning on or after*
25 *January 1, 2020.*

Union Calendar No. 583

114TH CONGRESS
2D SESSION

H. R. 5659

[Report No. 114-751, Part I]

A BILL

To amend title XVIII of the Social Security Act with respect to expanding Medicare Advantage coverage for individuals with end-stage renal disease (ESRD).

SEPTEMBER 19, 2016

Reported from the Committee on Ways and Means with an amendment

SEPTEMBER 19, 2016

The Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed